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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/717,293	11/22/2000	Shinji Abe	Q61931	2077

7590 04/12/2005

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2100 Pennsylvania Ave NW
Washington, DC 20037

EXAMINER

HSU, ALPUS

ART UNIT	PAPER NUMBER
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2665

DATE MAILED: 04/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/717,293

Applicant(s)

ABE ET AL.

Examiner

Alpus H. Hsu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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1. Applicant's arguments with respect to claims 1, 26 and 42 have been considered but are moot in view of the new ground(s) of rejection.

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the claimed **"data link layer"** as in claims 1, 26 and 42, **"means for recording"** and **"means for executing transfer"** as in claim 1, **"means for temporarily stopping transfer processing"** as in claims 2, 4, 6, 8-16, 18, 20, 22, 24, 25, **"means for monitoring"** as in claims 3-8, 11-16, 19-24, **"means for comparing"** as in claims 17-25, all must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

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3. Claims 1-47 are rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. The feature of having **“a management layer designates a logical channel to transfer a descriptor to a data link layer, the data link layer subsequently analyzes the descriptor, sets up an appropriate packet and outputs a message and data to a physical layer to execute data transfer to a node of a third party, and the management layer confirms the transfer to complete the transfer”** is critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976).

To be more specific, according to the specification disclosure, **“the descriptor is prepared by a management layer”** (page 23, lines 25-27), **“in the data transfer procedure, first, a management layer designates a logical channel to transfer a descriptor to a data link layer, the data link layer subsequently analyzes the descriptor, sets up an appropriate packet and outputs a message and data to a physical layer to execute data transfer to a node of a third party, and the management layer confirms the transfer to complete the transfer”** (page 24, lines 7-14), and **“with information including that regarding the transfer order of each logical channel recorded in a descriptor for recording information regarding transfer of each logical channel which conducts each packet transfer, a data link layer executes transfer of each logical channel based on the recorded transfer order”** (page 24, lines 16-22).

However, in each of independent claims 1, 26 and 42, only a data link layer and means and process for recording information regarding order of transfer by each logical channel in the descriptor, and means and process for executing transfer by each logical channel based on the order of transfer by each logical channel designated by the descriptor were recited. The

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processes of **“a management layer designates a logical channel to transfer a descriptor to a data link layer”**, **“the data link layer subsequently analyzes the descriptor, sets up an appropriate packet and outputs a message and data to a physical layer to execute data transfer to a node of a third party”**, and **“the management layer confirms the transfer to complete the transfer”** are critical and essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure.

4. Claims 1-47 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 4, “channels” should read as -- channels between nodes --; line 7, it is confusing and ambiguous for reciting “information including information”, lines 7-8, “the order of transfer” lacks antecedent basis. In addition, lines 9-10; it is confusing for reciting “said data link layer includes means for executing transfer”. How can a data link layer comprise means for performing function?

Similar rejections also apply to claims 2-15, 26 and 42.

5. Due to the nature of 112, 1st and 2nd problems as indicated above, there is no prior art can be applied for rejection purpose yet.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Yokoyama et al., Glover et al., Osborne et al., Rathnavelu, and Naven are all cited to show the common feature of data transfer in a communication system utilizing data link layer, control processor, and virtual/logical channels similar to the claimed invention.

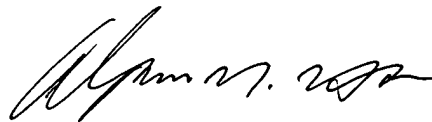
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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alpus H. Hsu whose telephone number is (571)272-3146. The examiner can normally be reached on M-F (5:30-3:00) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy D. Vu can be reached on (571)272-3155. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AHH



Alpus H. Hsu
Primary Examiner
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